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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

BRYAN MATTHEW MARTIN,

Defendant and Appellant.

H037468

(Santa Cruz County

Super. Ct. No. F20585)

Bryan Matthew Martin, the defendant herein, appeals from a jury verdict convicting him of robbery and a trial court judgment that he had a prison record exposing him to additional punishment.

Counsel for defendant has filed an opening brief that states the case and facts but raises no issues. We notified defendant of his right to submit written argument on his own behalf. Defendant did not do so.

We have, as required by *People v. Wende* (1979) 25 Cal.3d 436, and *People v. Kelly* (2006) 40 Cal.4th 106, set forth herein the facts, the procedural background (including a description of the crimes of which defendant was convicted), and the disposition of defendant's case; and we have reviewed the entire record. Having carried out these tasks, we affirm the judgment.

PROCEDURAL BACKGROUND AND FACTS

A jury convicted defendant of second degree robbery. (Pen. Code, §§ 211, 212.5.) It found not true an allegation that a pair of scissors he allegedly used during the robbery

constituted a deadly or dangerous weapon within the meaning of Penal Code section 12022, subdivision (b)(1).

Trial and judgment rested on the following facts. On March 11, 2011, defendant went to a Kmart department store in Scotts Valley and shoplifted three music CD-ROMs and a set of headphones. When a store security officer confronted him, he extracted a scissors from his pocket and swung at the officer while gripping them. The officer knocked the scissors out of his hand. He picked the scissors up, ran, and was apprehended by responding police. As noted earlier, the jury concluded that the scissors did not constitute a deadly or dangerous weapon.

The trial court found true that defendant had two prison priors within the meaning of subdivision (b) of Penal Code section 667.5. The court sentenced him to the aggravated five-year term for the robbery (Pen. Code, § 213, subd. (a)(2)) and one year for each prior prison term, but suspended execution of the sentence and placed defendant on probation. One probation condition required defendant to serve 365 days in county jail, minus credit for 207 days already served.

DISCUSSION

We have, as noted, reviewed the entire record and examined it for any possible arguable issues on appeal that could benefit defendant. We agree with counsel for defendant that there are none. Therefore, we will affirm the judgment.

DISPOSITION

The judgment is affirmed.

Márquez, J.

WE CONCUR.

Elia, Acting P. J.

Bamattre-Manoukian, J.